

No. 14463

United States
Court of Appeals
for the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

vs.

PHILLIP DAVISSON, WILLIAM DAVISSON,
OSCAR SCHERRER and WARNER SCHER-
RER, d/b/a SCHERRER AND DAVISSON
LOGGING COMPANY,

Respondents.

Supplemental
Transcript of Record
(Pages 109 to 117)

On Petition to Enforce an Order of the National
Labor Relations Board

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PAUL P. O'BRIEN,
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INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

PAGE

Witnesses, Respondent's:

Davisson, Marguerite Marie

—direct 114

—cross 115

Davisson, Phillip

—direct 112

Davisson, William Robe

—direct 111

Huswick, Matt

—direct 116

Sherrer, Oscar

—direct 109

—cross 110

OSCAR SCHERRER

a witness called by and on behalf of the Respondent, being first [101] duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Maxwell:

Q. Will you state your name, please?

A. Oscar T. Scherrer.

Q. Where do you reside?

A. Granite Falls, Washington.

Q. In Granite Falls?

A. No, three miles south of Granite Falls.

Q. Are you one of the members of the firm Scherrer and Davisson? A. Yes.

Q. Were you present when Mr. Roberts testified? A. Yes.

Q. Was Mr. Roberts employed as a whistle punk? A. No, as a chaser.

Q. Referring to the conversations that he referred to at lunch time, did you have any conversation or make any statements to Mr. Roberts regarding Alex Cook? A. No.

Q. Did you ever state to Mr. Roberts, did you ever engage in conversation to him about employing anyone? A. Not that I know of.

Q. On the second occasion, allegedly right after he had gone to work in the afternoon, did you ever state that you would not allow the company to hire Alex Cook? [102] A. I never did.

Q. Did you ever refer to any Union activities

(Testimony of Oscar Scherrer.)

of Alex Cook? A. Never have.

Q. How long have you been in the logging business?

A. Well, I have been an employer about five years, but I have worked in it about 25 years.

Q. Were you a member of the International Woodworkers of America Union? A. I was.

Q. Are you still a member?

A. No, I am not.

Q. You have a withdrawal card?

A. No, I haven't.

Q. When did your membership cease?

A. I think it was 1948.

Q. Is that the time you went into business for yourself? A. Yes.

Q. Have you ever refused employment to any individual because of Union activities?

A. No.

Q. Have any of your partners ever refused?

A. No.

Mr. Maxwell: Your witness.

Cross-Examination

By Mr. McIntyre:

Q. How long have you been in the logging [103] business in or around Sultan?

A. Oh, about four years.

Q. About four years, and it has been continuous in the past four years?

A. Well, in the logging season, yes.

(Testimony of Oscar Scherrer.)

Q. In that vicinity? A. Yes.

Mr. McIntyre: No further questions.

Trial Examiner Royster: That appears to be all, Mr. Scherrer.

(Witness excused.)

Mr. Maxwell: I would like to recall Mr. Davisson for just one question I think I overlooked.

WILLIAM ROBE DAVISSON

a witness called by and on behalf of the Respondent, having been previously sworn, resumed the stand and testified further as follows:

Direct Examination

By Mr. Maxwell:

Q. You are the Mr. Davisson who testified just a few moments ago? A. Yes.

Q. Mr. Davisson, did you ever talk with Mr. Roberts?

Mr. McIntyre: Objection. This is far beyond the scope of the direct and the redirect and re-redirect. Where do we stop on the examinations? [104]

Trial Examiner Royster: He said that it is something he overlooked. I am going to let him question the witness.

Mr. Maxwell: Roberts testified on this.

Q. (By Mr. Maxwell): Before Mr. Roberts was employed did you have a conversation with him at your home regarding Alex Cook?

Mr. McIntyre: Objection.

(Testimony of William Robe Davisson.)

Trial Examiner Royster: Overruled. You may answer.

A. No, not that I remember.

Q. (By Mr. Maxwell): Did you ever tell Mr. Roberts that you wanted to hire Mr. Cook but your partners wouldn't allow you?

Mr. McIntyre: Objection.

Trial Examiner Royster: Overruled.

A. No.

Mr. Maxwell: That is all.

Mr. McIntyre: No further questions.

Trial Examiner Royster: That is all.

(Witness excused.)

Mr. Maxwell: Mr. Davisson.

PHILLIP DAVISSON

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Maxwell:

Q. Will you state your full name, please?

A. Phillip Davisson.

Mr. McIntyre: Before we go into this, could I get a ruling [105] from the trial examiner as to whether or not he believes that the questions added to Mr. Davisson were beyond or were not beyond the scope of the direct examination.

Trial Examiner Royster: It was direct examina-

(Testimony of Phillip Davisson.)

tion. It was direct examination that had been overlooked when the witness was first called to the stand.

Q. (By Mr. Maxwell): Are you one of the partners of the firm of Scherrer and Davisson?

A. Yes.

Q. Prior to your becoming a partner of that firm what business or occupation were you engaged in?

A. Working in the woods.

Q. Were you a member of the International Woodworkers of America? A. I was.

Q. How long were you a member of the International Woodworkers of America?

A. I was a member of the local up here for three years and a half.

Q. Are you still a member? A. No, sir.

Q. Do you have a withdrawal card?

A. Yes, sir.

Q. During the time that you were a member of the Union did you ever serve on any committees? [106]

A. No, sir.

Q. Did you ever serve on any committees for the International Woodworkers of America other places? A. Yes, sir.

Q. Where? A. Local 29, Tacoma.

Q. What did you do for Local 29 in Tacoma?

A. I was presser.

Q. Were you on any committees?

A. Grievance committee in the mill.

Q. Did you ever talk with Mr. Alex Cook in this case? A. No, sir.

Q. Did Mr. Cook ever talk to you?

(Testimony of Phillip Davisson.)

A. No, sir.

Q. Did Mr. Castle ever talk to you about this case? A. No, sir.

Q. Did Mr. Rawlins ever talk to you about this case? A. No, sir.

Q. Did your company ever refuse to hire any individual, including Mr. Cook, because of alleged Union activities? A. No, sir.

Mr. Maxwell: Your witness.

Mr. McIntyre: No questions.

Trial Examiner Royster: That is all.

(Witness excused.) [107]

* * *

MARGUERITE MARIE DAVISSON

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Maxwell:

* * *

Q. Referring to March of 1953, on the occasion on which Mr. Cook has testified that he came to your home, do you recall that instance?

A. Yes, sir.

Q. Will you relate, were you present at all times?

A. Yes.

Q. Will you relate what was said at that time?

A. He came in and asked my husband if he would need cutters. He said yes he would, but he

(Testimony of Marguerite Marie Davisson.)

was going to try to hire all of his cutters in the Sultan area this year. Mr. Cook said he would move to Sultan. At that time I said we were thinking of moving to Sultan, too, but we hadn't been able to find anything over there that was suitable.

Q. Was Mr. Cook promised employment at that time? A. No, sir.

Q. What was said further with reference to employment? [108]

A. When he left he said, if you want me, call me.

Q. Anything further said? A. No.

* * *

Mr. Maxwell: Your witness.

Cross-Examination

By Mr. McIntyre:

Q. When Mr. Cook said "Call me if you need anybody," what did Mr. Davisson say?

A. He said, "O. K., Mr. Cook, if you need me, call me."

Q. What did Mr. Davisson say? [109]

A. He said, "O. K."

Mr. McIntyre: No further questions.

Trial Examiner Royster: That is all.

(Witness excused.)

MATT HUSWICK

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Maxwell:

Q. Will you state your name for the record?

A. Matt Huswick.

Q. Where do you reside, Mr. Huswick?

A. Route 4, Snohomish.

Q. Do you know a Mr. Rawlins and a Mr. Cook?

A. Yes.

Q. When did you first meet them?

A. Oh, it must be the last part of June.

Q. The last part of June? A. Yes.

Q. Of what year? A. '53.

Q. Were you the owner of a donkey?

A. Yes.

Q. Did you sell them the donkey?

A. Yes.

Q. When did you sell them the donkey? [110]

A. May 5th.

Q. May 5th? A. Yes.

Q. You must have met them before June, didn't you?

Trial Examiner Royster: I guess we will have to agree that that is so.

Q. (By Mr. Maxwell): Had they been over to your house before to see the donkey, this gas donkey? A. Yes.

Q. Had you advertised this donkey for sale?

(Testimony of Matt Huswick.)

A. No.

Q. How long before May 5th did they contact you or see you about the donkey?

A. About a week.

Q. Had they come over to run the donkey?

A. Yes, they had.

Q. How long did they do that?

A. They were there for about five or six days trying out the donkey, how she worked.

Q. And they were helping you at that time in that they were running the donkey? A. Yes.

Q. They appeared to be quite anxious to get the donkey? A. Yes.

Q. Did you deliver the donkey to them? [111]

A. Yes.

Q. On what day? A. May 5th.

Q. Where did you deliver it?

A. To Cook's.

Q. Mr. Cook's house near Granite Falls?

A. Yes. [112]

* * *

